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Issues

for
RHODE ISLAND
MANAGEMENT

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REASONABLE JOB ACCOMMODATION: *What is reasonable, and how much is enough?*

Rehabilitation programs, readers, special equipment, extra time off — when is an employer obligated to provide these or similar handicap accommodations, and to whom? What is reasonable, who is handicapped, and when is a handicapped job applicant “otherwise qualified” under the law?

What the Statutes Say

The Vocational Rehabilitation Act of 1973 requires all federal contractors and subcontractors with annual contracts of more than \$2,500 to take affirmative action to employ qualified handicapped workers. Any organization that receives federal financial assistance must take similar affirmative action.

In addition, the Vietnam Era Veterans Readjustment Act requires that businesses with annual federal contracts in excess of \$10,000 have an affirmative action program that encourages employment of qualified disabled veterans and Vietnam era veterans. The federal government is required to comply with similar regulations. (29 CFR 1613.704).

Each statute requires employers to make “reasonable accommodation” to the physical and mental limitations of a “qualified” handicapped employee or job applicant, unless the employer can demonstrate that such an accommodation would impose an “undue hardship” on the company’s business.

Finding the Handicapped

The Rehabilitation Act applies to a specific group of handicapped people. Not only must they be qualified for the work in question, they must also be “handicapped” within the parameters of the statute. Under the Act, a handicapped individual is one who:

- Has a physical or mental condition which limits one or more of the person’s major life activities;
- Has a previous history of this type of impairment; or
- Is viewed as having such a condition.

Major life activities include the ability to function independently within the community or the workplace, as well as to care for one’s physical, mental, or emotional needs. A hand-

icap is not limited to readily apparent impairments such as spinal cord injury or cerebral palsy. It also may include so-called hidden handicaps such as cancer, heart disease, diabetes, AIDS, mental illness, drug addiction, or alcoholism.

It is not up to the employer to ferret out an employee’s hidden handicaps. If handicapped individuals do not indicate the extent of their impairment, or do not request accommodations, the employer is not obligated to take action. Employers must inform workers and job applicants of their rights under the law; it is then up to the employees to make their needs known.

Determining Qualifications

Employers are required to accommodate only those handicapped workers who are “otherwise qualified.” Determining when an individual is qualified hinges to a large extent on the handicapped person’s ability to perform essential job functions. Handicapped individuals who are unable to do the job, even with accommodations, are not considered qualified.

Key issues in determining whether a person is qualified for a particular job are:

- What are the essential functions of the job, i.e., what basic qualifications are necessary to perform the job?
- Is the handicapped individual capable of performing all the essential functions of the job?
- Are there reasonable accommodations available that would enable the handicapped person to perform all the essential job functions?

Reasonableness of Accommodations

If accommodations will enable a handicapped worker to perform the essential functions of the job, the employer is obligated to provide those accommodations, so long as they are deemed “reasonable.” The value and nature of a particular accommodation may be clarified by considering the following:

- Is the accommodation necessary for the performance of duties?

(continued on page 2)

Job Accommodation (continued from page 1)

- To what extent does the accommodation compensate for the handicapped worker's limitations?
- Will the accommodation give the employee the opportunity to function, participate, or compete on a more nearly equal basis with co-workers?
- Would the accommodation benefit others, both non-handicapped and other handicapped workers?
- Are there alternatives that would accomplish the same purpose?

The accommodation must be job-related, effective, and must enable the handicapped person to perform the essential functions of the job. Providing inadequate accommodations simply for the purpose of marginal compliance is not acceptable. Reasonable accommodations should enable the handicapped worker to carry out the essential job duties in much the same manner expected of any other employee.

Cost is an important factor in determining reasonableness, as is the degree to which an employer's business may be disrupted by the accommodation. Courts have consistently ruled that accommodations which would require "fundamental alterations," "massive changes," "substantial modifications," or would "endanger a program's viability" or "jeopardize effectiveness" are not required.

Undue Hardship Exception

While accommodations which cause an employer undue hardship need not be made, the burden of proving hardship rests with the employer. Factors that may be considered in evaluating the extent of the hardship include:

- The overall size of the company with respect to the number of employees, number and type of facilities, and size of budget;
- The type of operation, including the composition and structure of the workforce; and
- The nature and cost of the accommodation.

While employers have an obligation to pay for reasonable accommodations, they also have a right to choose the accommodation that will be provided. The accommodation selected from a group of alternatives must enable the handicapped employee to perform the essential job-related functions, but the employer may rightfully select the least costly option.

Accommodation in the Selection Process

Reasonable accommodations are required when the application and selection process might discriminate against an otherwise qualified individual. Employers may need to modify testing procedures, for example, so that handicapped applicants can demonstrate their abilities competitively. Examination content also can be modified to measure the same areas of knowledge, skills, and abilities without screening out handicapped competitors. Other accommodations in the application process may include:

- Reading to applicants who are blind, or who have reading disabilities;
- Writing for applicants who have difficulty using their hands; or
- Interpreting test instructions into sign language for the deaf.

In addition to making sure tests are administered fairly, employers should be sure selection criteria themselves are not discriminatory. Criteria which purport to measure the physical or mental abilities of employees or applicants may not unnecessarily exclude individuals on the basis of their handicap, and the criteria must be clearly job-related. Employers should consider the extent to which selection practices or standards can be modified to accommodate the unique needs of the handicapped.

Examples of Reasonable Accommodation

The types of actions that can be taken in connection with reasonable accommodation once a handicapped applicant is hired are as varied as the needs of the individuals involved, the type of job, and the ingenuity of the employer. Worksites can be modified by:

- Rearranging files and widening access areas for wheelchair accessibility;
- Using Braille labels;
- Modifying equipment for hand or foot operation;
- Installing telecommunication devices or telephone amplifiers;
- Providing holding devices on desks and telephones;
- Providing special heating or air conditioning units for those who are sensitive to temperature variations; and
- Eliminating barriers, or relocating offices or jobs to places that are accessible to handicapped workers.

Some handicaps require accommodations in the jobs themselves, rather than the physical environment. Employees with diabetes or epilepsy, for example, may need to work a regular schedule. On the other hand, workers who require periodic medical treatment may need flexible schedules. Providing readers or interpreters may be a reasonable accommodation for some handicapped workers. For able-bodied workers who become handicapped after employment, retraining or reassignment may be reasonable accommodations.

Through advanced technology, there are numerous assistive devices which can enable handicapped workers to compete favorably with other employees. Sources are often available to aid employers with the cost of accommodation equipment.

The concept of reasonable accommodation does not apply only to selection and placement. Employers should also be aware of anti-discrimination requirements in recruitment, training, promotion, reassignment, and developmental assignments.

THE COFFEE BREAK . . . DON'T ABUSE IT.



Some workers consider the coffee break as their God-given right. They've earned it and they are going to take it . . . and when it suits them . . . unless of course, it is an event regulated by the clock in your agency.

This isn't as it should be. An employee should be willing to work through coffee breaks once in a while, or forego them for a few minutes until an important project is

completed.

There is much positive to be said about the coffee break. It is an important benefit to both the agency and the employees. It allows for cross-pollination, so to speak, when members of different sections of the agency can get together who normally wouldn't. Sometimes the most vexing of problems are worked out to everyone's mutual satisfaction at a coffee break. Moreover, most enlightened managements know this, and heartily approve of coffee breaks . . . even ones that stretch beyond the allowed time. (That's assuming they are productive.)

Stretching a coffee break to discuss this past weekend's activities, or next weekend's plans is an abuse, however. Don't fall into this trap. Use coffee breaks . . . but don't abuse them.



SYBIL SERVICE SAYS ...

A profession is a personal thing that we acquire. It cannot be inherited. It cannot be bequeathed. Only those who, having made the acquisition, put to use that knowledge and skill with all their ability and complete dedication of purpose, can be truly called professionals.

DOS AND DON'TS FOR FIRING

Many will recall reading or hearing about a recent airline plane crash in California which authorities now believe was caused by a disgruntled worker who recently was fired.

Outplacement executive James Challenger says "the potential for a strong reaction against an employer is likely to have its roots in the discharge meeting. If the discharge meeting is handled poorly, the employer may anticipate a post-discharge reaction that can range from bad-mouthing of the employer to a wrongful discharge lawsuit to physical violence, in the extreme."

He provides several guidelines for that encounter:

- If you don't like the employee, don't let it show during the discharge. A show of antagonism on top of being discharged may trigger extreme reactions.

- Don't ridicule or cast aspersions on his or her character or abilities during the termination meeting.

- After the employee leaves the discharge room, the book should be closed. Do not discuss with anyone, internally or externally, anything about the discharged person ever again.

- If outplacement counseling is offered as a paid benefit, have the counselor on the scene, ready to begin working immediately with the former employee.

Many employers, to avoid lawsuits, don't offer references. They confirm past employment and say no more.

THE BOOKMARK

How to Slash the \$100 Billion Cost of Paperwork, by Dianna Booker. *The Personnel Journal*, December 1987.

The cost of paperwork to most organizations is enormous — much larger than most people realize.

An excellent way to reduce wasteful paperwork is to publicize how much time and money it costs your agency or department to write and read memos and to process, store and maintain forms.

Here are some figures reported in *Personnel Journal*:

- For every dollar spent to print forms, \$20 to \$80 is spent to process, copy, distribute, store and destroy them.
- White collar workers spend 21 percent to 70 percent of all their working hours on paperwork, and a total of 18,000 pages (or a four-drawer file cabinet) are maintained for each white collar worker. The file increases 4,000 pages a year for each employee.

Employers spend \$25,000 to print and process the forms in each four-drawer file cabinet and \$2,160 annually to maintain each cabinet.

An informal survey of 657 employees in 14 companies revealed that 54 minutes are spent planning, composing and editing the average memo or letter. Taking the illustration of an employee earning \$35,000 a year, or \$1750 per hour, his or her 54-minute writing of the average memo or letter will cost the company \$15.75.

- Survey respondents estimated that routine documents are rewritten 4.2 times within the organization before they reach their intended audience. A memo rewritten 4.2 times by our typical employee costs \$106.15. If he or she writes only one memo a week, those messages cost the agency \$5,519.80 a year.

Use these figures to stir people in your agency into thinking twice before insisting upon writing, or ordering others to write, superfluous memos and letters.

9 Tips For Revamping Your Job

1. Review your performance. Whether you're bored, overworked or simply stagnating in your job, the cure starts with you. Before approaching your boss, find out what you can do to remedy the situation. On paper, list your job responsibilities. Organize them in order of priority, and note how much time you devote to each. Ask yourself if you're managing your time properly and delegating effectively. Be honest — it could be you simply need to get your act together. The bonus: People who feel in control of their jobs — and act accordingly — experience less stress than those who feel helpless and so do nothing.

2. Analyze the situation. Once you've decided your job requires extensive renovation, decide what you'd like to do, how you're going to go about adding these responsibilities to your job description, and who could help you design a more satisfying job. Prepare a brief memo, then make an appointment to talk with your boss. At this meeting, be sure to downplay what *you'll* get out of revamping your job, and never say you're bored — that will reflect badly on you, not your job. No boss likes a whiner. Instead, emphasize how your suggestions could make your agency or department more efficient and/or productive — and your boss's own job easier.

3. Scope out the boss. Before you attempt to reshuffle your job responsibilities, ask yourself if your superiors would welcome such a change. If yours is a static organization, there may be no way but out. But if you have innovative and flexible bosses, showing you're eager to improve your agency's operation can only make you more valuable an employee.

4. Examine your hobbies and interests. If you've got a bad case of job blahs, think about your hobbies and outside interests. Your strongest talents may be ones you've never used at work. This will give you a starting point to change your job description. For instance, if you're a "people person" who's stuck crunching numbers, you could volunteer to do some public relations work for your agency.

5. Think big. Instead of focusing on your narrow, prescribed duties, find a need and fill it. For instance, join or organize an interdepartmental task force to help solve an agency or departmentwide problem. Your initiative will increase your visibility and promotability.

6. Get Smarts. Educate yourself in the areas in which you want to work. That doesn't mean you have to have an MBA or graduate degree. Take courses in areas in which you are interested. Hands-on education pays off just as handsomely. Learn as many jobs as you can. That way, you're more likely to be tapped if an opportunity opens up in an area in which you're knowledgeable.

7. Have more fun. There is life outside the office. If you must stay put for a while for whatever reason, de-stress by volunteering for a cause, taking singing lessons or starting an exercise program.

8. Plan ahead. If you truly are stuck in an impossible position, start working on your *next* job — if only mentally. Draw up a plan for that business you've always wanted to start or take courses in the field you've always been interested in. You'll feel better if you see your job as a temporary means to an end.

9. Accentuate the positive. If you project a bad attitude, griping all the time, your coworkers will avoid you, which will make doing your job even more difficult. Concentrate on the good points of your job — nice people or even a good location — don't dwell on what you don't like. If you continually tell yourself "this is a lousy job," you're going to feel helpless and locked in.

ISSUES

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WHEN SHOULD YOU GET INVOLVED?

A fistfight occurs in a restaurant. Two motorists are violently arguing over a parking spot. A mother is obviously spoiling her children. What is the best response you could make? No response at all! That's right, it is none of your business.

In many situations, your wisest course is not to get involved. But at work, getting involved often makes the difference between your growth or stagnation, your success or failure.

It is not always an easy decision. In job situations, when is it to your advantage to get involved, and when is it best not to?

DO NOT get involved when:

The lines of authority and responsibility in your agency or department make it clear that it is someone else's job.

You don't understand the problem, aren't sure of the answer, or would have to make uneducated guesses.

You offer a suggestion or advice to your supervisor, and he or she explains why your idea won't work.

DO get involved when:

You are not intruding on anyone else's "territory."

Your boss encourages you to get involved.

You have a good idea that you think may save your agency money or time.

Getting involved won't hurt anyone and may benefit you.

What if you can't decide? For example: You overhear your supervisor and his or her assistant discussing a departmental procedure.



Should the job be done this way or that way? Should this step be included or eliminated? Would adding another control ensure accuracy? Would this change or that modification simplify the procedure or get the work done faster?

Since you are familiar with the job on a daily basis, you have your own ideas on the subject. But these are management decisions. Should you offer your input?

Why not? Ponder that question for a moment. Why not? Think: What do you have to lose? And what do you have to gain? Do you think your ideas might improve the procedure and boost efficiency? Will they get the job done faster and thereby upgrade productivity?

Finally, keep in mind the major trend these days toward increased participation by employees down the line in agency and department operations. More managers are welcoming employee input in day-to-day work decisions and problems.

Practically speaking, what can constructive participation do for you? Most important, it can call managers' attention to your interest in and concern with the agency's well-being, progress, and efficiency. Nothing gets you noticed and helps you advance more than proposing a good idea.

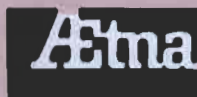
When you participate in problem solving and decision making, your life general and your job in particular become more interesting. Besides, it's the "in thing" to do! Get involved!

ISSUES IS SPONSORED BY THE FOLLOWING DEFERRED COMPENSATION CARRIERS . . .

Deferred Compensation — an employee benefit with far-reaching advantages . . .

State employees can save for the future by participating in the deferred compensation program, a way of putting money aside without having to pay taxes on it, or the income it earns, until retirement when your tax rate is usually lower. Managers can assist their employees in learning more about deferred compensation by showing them an audio-visual presentation that clearly explains the deferred compensation program. To arrange to show this slide-tape production, call the Employee Benefits Section, Office of Personnel Administration at 277-3160.

This newsletter is sponsored by the state's three carriers of the deferred compensation plan.



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